



During its May 17 business meeting, OSB adopted changes to sections 3000, 3001, 3009, and Appendix A of Title 8, and Part 7, section 7-3000 of Title 24, State Elevator Safety Code. These amendments would specify that the Elevator Safety Orders apply to all elevators within the state; establish a two-year inspection program for all elevators pursuant to Labor Code sections 7300, 7301, and 7304; and require all elevator owners to have full maintenance service contracts with a qualified elevator service company.

Also during its May 17 business meeting, OSB granted permanent variances to the following entities: Wilshire-Rexford Associates, Brian Bayzaee & Mark Gregorian, Michael

Chiu, Genovesi Construction, and McGeorge School of Law from Title 8, section 3000(c)(13) of the Elevator Safety Orders (wheelchair lift with a vertical rise in excess of five feet); Ther-A-Pedic Sleep Products from Title 8, section 462(m)(3) of the Unfired Pressure Vessel Safety Orders (plastic pipe used in compressed air line); and Mountain High Ski Area from Title 8, section 3157(b)2.4.1.1 of the Aerial Passenger Tramway Safety Orders (installation of an aerial tramway with a safety factor of less than five).

FUTURE MEETINGS:

September 20 in Sacramento.

October 25 in San Francisco.

November 15 in San Diego.

vices for agricultural producers, handlers, and consumers; oversees the operation of marketing orders and administers the state's milk marketing program;

5. Division of Pest Management—regulates the registration, sale, and use of pesticides and works with growers, the University of California, county agricultural commissioners, state, federal and local departments of health, the U.S. Environmental Protection Agency (EPA) and the pesticide industry;

6. Division of Measurement Standards—oversees and coordinates the accuracy of weighing and measuring goods and services; and

7. Division of Fairs and Expositions—assists the state's 80 district, county, and citrus fairs in upgrading services and exhibits in response to the changing conditions of the state.

In addition, the executive office oversees the Agricultural Export Program and the activities of the Division of Administrative Services, which includes Departmental Services, Financial Services, Personnel Management, and Training and Development.

The State Board of Food and Agriculture is an advisory body which consists of the Executive Officer, Executive Secretary, and fifteen members who voluntarily represent different localities of the state. The State Board inquires into the needs of the agricultural industry and the functions of the Department. It confers with and advises the Governor and the director as to how the Department can best serve the agricultural industry and the consumers of agricultural products. In addition, it may make investigations, conduct hearings, and prosecute actions concerning all matters and subjects under the jurisdiction of the Department.

At the local level, county agricultural commissioners are in charge of county departments of agriculture. County agricultural commissioners cooperate in the study and control of pests that may exist in their county. They provide public information concerning the work of the county department and the resources of their county, and make reports as to condition, acreage, production and value of the agricultural products in their county.

MAJOR PROJECTS:

CDFA Steps Up Aerial Malathion Spraying. Over the past six months, CDFA has dramatically expanded the frequency and breadth of its aerial malathion spraying program, in an as-yet-unsuccessful attempt to eradicate the Mediterranean fruit fly (medfly) and the Mexican fruit fly (mexfly) in southern California. (See CRLR Vol. 10, No.



DEPARTMENT OF FOOD AND AGRICULTURE

DEPARTMENT OF FOOD AND AGRICULTURE

Director: Henry Voss
(916) 445-7126

The California Department of Food and Agriculture (CDFA) promotes and protects California's agriculture and executes the provisions of Food and Agricultural Code section 101 *et seq.*, which provides for CDFA's organization, authorizes it to expend available monies, and prescribes various powers and duties. The legislature initially created the Department in 1880 to study "diseases of the vine." Today the Department's functions are numerous and complex. Among other things, CDFA is authorized to adopt regulations to implement its enabling legislation; these regulations are codified in Chapters 1-7, Title 3, Chapters 8-9, Title 4, and Division 2, Title 26 of the California Code of Regulations (CCR).

The Department works to improve the quality of the environment and farm community through regulation and control of pesticides and through the exclusion, control, and eradication of pests harmful to the state's farms, forests, parks, and gardens. The Department also works to prevent fraud and deception in the marketing of agricultural products and commodities by assuring that everyone receives the true weight and measure of goods and services.

CDFA collects information regarding agriculture and issues, broadcasts, and

exhibits that information. This includes the conducting of surveys and investigations, and the maintenance of laboratories for the testing, examining, and diagnosing of livestock and poultry diseases.

The executive office of the Department consists of the director and chief deputy director, who are appointed by the Governor. The director, the executive officer in control of the Department, appoints two deputy directors. In addition to the director's general prescribed duties, he/she may also appoint committees to study and advise on special problems affecting the agricultural interests of the state and the work of the Department.

The executive office oversees the activities of seven operating divisions:

1. Division of Animal Industry—provides inspections to assure that meat and dairy products are safe, wholesome, and properly labeled, and helps protect cattle producers from losses from theft and straying;

2. Division of Plant Industry—protects home gardens, farms, forests, parks, and other outdoor areas from the introduction and spread of harmful plant, weed, and vertebrate pests;

3. Division of Inspection Services—provides consumer protection and industry grading services on a wide range of agricultural commodities;

4. Division of Marketing Services—produces crop and livestock reports, forecasts of production and market news information, and other marketing ser-



1 (Winter 1990) pp. 118-19 for background information.) The eradication zone for the medfly alone has expanded to 470 square miles in Los Angeles, Orange, San Bernardino, and Riverside counties; upon the finding of three flies, San Diego County became the target of aerial spraying for the mexfly in late May and early June.

CDFA claims that aerial spraying is necessary to avoid a serious threat to a substantial portion of California's \$16-billion-per-year agricultural industry. As of June 1, the eradication program has already cost upwards of \$40 million in taxpayer money, and has showered southern Californians in 47,000 gallons of malathion.

Several of the cities doused with the sticky pesticide have sued CDFA to stop or postpone the spraying, questioning the efficacy, necessity, safety, and legal validity of the aerial spraying program. From Huntington Beach to San Bernardino to El Cajon, one city attorney after another has challenged the spraying on a variety of grounds, including the California Environmental Quality Act (CEQA), the California Endangered Species Act (CESA), the Safe Drinking Water and Toxics Enforcement Act (Proposition 65), the CDFA Director's alleged failure to make required factual findings in support of his decision to spray (as required by the Food and Agricultural Code), and the Department's alleged failure to adequately consider alternatives to aerial spraying.

Most disturbingly, the cities have raised serious questions about the health effects of malathion exposure. The City of Huntington Beach produced Dr. Marc A. Lappe, professor of health policy and ethics at the University of Illinois, who testified that "...there is significant danger of chronic toxicity and possible genetic damage to [children, the elderly and infirm] if directly exposed to commercial grade malathion aerial spraying." Dr. Lappe authored a 1980 study commissioned by the state of California on the health effects of malathion, but refused to sign it and later disavowed it based upon subsequent studies of the possible hazards of malathion exposure. Dr. Samuel Epstein, an expert witness produced by the City of El Cajon in its challenge, characterized the state's aerial spraying program as "reckless irresponsibility," and stated that this irresponsibility is "compounded by the lack of exposure and surveillance data on the acute and neurotoxic effects" of malathion. However, CDFA—through Deputy Attorney General Charles Getz and senior toxicologist Dr. Peter

Kurtz—respond that no study has "conclusively" produced evidence of any health problems related to malathion.

Thus far, the aerial spraying has been ineffective in eradicating the pests. However, no one has been successful in stopping CDFA's helicopters through litigation. No one has been able to pierce the now familiar sequence: (1) emergency rulemaking (which is legally free from the notice, public comment, and hearing requirements of the Administrative Procedure Act) by the CDFA Director, which declares a particular region (sometimes whole counties consisting of hundreds of square miles) an "eradication zone", thereby enabling the Director to engage in any type of eradication activity deemed necessary; (2) upon the finding of one or two flies in a particular area, a declaration of a state of emergency by the Governor, which suspends the Administrative Procedure Act and thus relieves CDFA of the requirement of notice and hearing and insulates it from any challenge based on the APA; (3) a declaration of the existence of a local emergency by the affected county; (4) a two-page written decision by the CDFA Director, which announces the commencement of aerial malathion spraying and follow-up measures, and includes boilerplate factual findings regarding the number of flies found to support his decision to engage in his chosen eradication methods, and an allegation (but no details) that the Department has considered pesticidal and non-pesticidal alternatives; and (5) aerial malathion spraying.

Numerous bills have been introduced in the legislature on all sides of the malathion issue (*see infra* LEGISLATION). Opponents of malathion spraying have organized a toll-free malathion hotline (1-800-GO-TOXIN). Several protest groups have also formed, including Safe Alternatives to Fruit Fly Eradication (SAFE), Citizens Against Urban Spraying (CAUS), Coalition Against Malathion, and Garden Grove Residents Against Malathion Spraying (GGRAM).

CDFA Adopts Restrictions on Use of Aldicarb. Last fall, CDFA Director Voss rejected the recommendation of a subcommittee of CDFA's Pesticide Registration and Evaluation Committee that the state registration of aldicarb should be cancelled, due to its ability to pollute the groundwaters of the state. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 122 for background information.) However, the Director determined that a number of preventive actions would assure that aldicarb will not pollute the state's groundwaters.

Thus, on February 9, CDFA announced its intent to adopt section 6458, Titles 3 and 26 of the CCR, pertaining to the use of pesticides containing the active ingredient aldicarb. According to CDFA, section 6458 reduces the likelihood of aldicarb reaching groundwater by reducing the maximum rate at which aldicarb may be legally applied to certain agricultural and ornamental crops. In addition, section 6458(b) prohibits the application of aldicarb to the same agricultural and ornamental crops during the winter months. CDFA accepted comments on the proposed regulatory change until March 28, and thereafter adopted the change. The Office of Administrative Law (OAL) approved the regulatory action on June 4; the changes became effective on July 4.

Status Update on Other Proposed Regulations. The following is an update on the status of numerous regulatory changes proposed and/or adopted by CDFA and discussed in recent issues of the Reporter:

-Pesticide Worker Safety and Minimal Exposure Pesticides Regulations. CDFA recently concluded its review of all public comments on the modified version of its proposed amendments to sections 6400, 6724, 6738, 6770, and 6772; the repeal of sections 6410 and 6482; and the adoption of new sections 6790-6796, Titles 3 and 26 of the CCR, regarding pesticide worker safety and minimal exposure pesticides. (See CRLR Vol. 10, No. 1 (Winter 1990) pp. 121-22 and Vol. 9, No. 4 (Fall 1989) pp. 104-05 for detailed background information on these regulatory changes.) On June 19, the Department announced several more modifications to the originally proposed language of section 6772. The proposed amendment to section 6772 would reduce the reentry interval for cotton treated with propargite. The adoption of footnote (r) would require employees entering cotton fields treated with propargite after termination of the reentry interval to wear protective clothing. CDFA released the modified language for another supplemental public comment period which ended on July 6.

-Weights and Measures. On February 7, OAL approved CDFA's changes to regulatory sections 4000-4026.2 and 4082, Title 4 of the CCR, pertaining to commercial weighing and measuring devices and to device repairers. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 121 for background information.)

-Juice Grape Regulations. In September 1989, CDFA held a public hearing on a proposed amendment to



REGULATORY AGENCY ACTION

section 1437.10, Title 3 of the CCR, which would prohibit the use of stick-on labels on juice grape containers to indicate varietal designation and require all variety labels to be printed or embossed on each container. At this writing, the rulemaking package on this regulatory change is still being prepared.

-Methomyl Regulations. In June 1989, OAL approved CDFA's emergency amendments to section 6772(a), Titles 3 and 26 of the CCR, which increase the reentry interval after methomyl field spraying from 2 days to 7 days for early season applications and to 21 days for late season applications (or 10 days if leaf samples reveal methomyl degradation to defined safe levels). (See CRLR Vol. 9, No. 3 (Summer 1989) p. 96 for background information.) The emergency regulations expired at the end of September. After new data confirmed the original studies upon which the emergency regulations were based, CDFA submitted permanent amendments to section 6772(a) on April 6; OAL approved them on May 14.

-Groundwater Protection Regulations. On April 10, OAL approved CDFA's adoption of new sections 6000.6, 6417, 6486.2, 6486.3, 6486.4, 6486.5, and 6557; and amendments to sections 6416, 6486, 6800, and 6802, Titles 3 and 26 of the CCR. These regulations implement the Pesticide Contamination Prevention Act of 1985. (See CRLR Vol. 9, No. 3 (Summer 1989) p. 96 and Vol. 9, No. 2 (Spring 1989) p. 94 for background information.)

On January 29, OAL disapproved CDFA's adoption of new section 6199.75, Title 3 of the CCR, which establishes a one-year timeframe for pesticide manufacturers to submit data on specified ingredients and degradation products. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 120 for background information.) CDFA modified the language to resolve a clarity problem and resubmitted the proposed regulation to OAL, which approved the change on June 13.

-Economic Poison Assessment Increased. On March 2, OAL approved CDFA's permanent adoption of amendments to section 6386, Titles 3 and 26 of the CCR, which increases the assessment of pesticide registrants on all sales of registered economic poisons for use in California. (See CRLR Vol. 10, No. 1 (Winter 1990) p. 120-21 for background information.)

California Leads U.S. Agriculture Production for 41st Year. According to a 1988 statistical review issued in late

1989 and CDFA Director Henry Voss, agriculture in California is a \$16.6 billion industry, producing over 50% of the nation's fruits, nuts, and vegetables on only 3% of the nation's farmland. In 1988, the value of production of California farm and ranch products increased by 5% over 1987. Farm receipts were over \$6 billion higher than in Texas and Iowa, the second- and third-ranking states. Livestock remained the leading sector; the leading commodities were milk and cream, with just over \$2 billion in production for 1988. Cash receipts for cattle and calves increased by more than 21% to \$1.6 billion.

Further, gross cash receipts from 1989 marketing of California crops and livestock are expected to be a record \$17.3 billion, up 4% from 1988, according to Jim Tippett, head of CDFA's Agricultural Statistics Service. California's crop production during 1989 totalled 56.6 million tons, up 4% from the previous year. Vegetable production rose sharply, with much of the increase occurring in the processing crops that have a lower price. Fruit and nut production and value were both down 1%. Field crop production was up slightly, with nearly a 7% increase in value. Gains in feedlot cattle marketing and price, plus increased milk production and higher prices paid for milk, were major factors in a substantial increase in livestock receipts. Increases in broiler and turkey production, combined with higher prices, also contributed to the increased total value of livestock.

LEGISLATION:

AB 2644 (Waters, N.) would revise existing law which requires the CDFA Director, when conducting a pest eradication project, to adopt a written decision which describes the proposed action and which contains findings as to the need for the action, the statutory basis for the action, and notification that any action challenging the decision is required to be brought within a specific time period.

This bill would reorganize and recast these provisions and, in so doing, would generally establish different procedures to be followed by the Director depending upon whether the eradication project involves the aerial application of any economic poison or another method of eradication. The bill would generally prohibit the Director from commencing an eradication project involving aerial application unless a public factfinding hearing is held before commencement of the project. The bill would specify

procedures for those hearings, including notice requirements and the disclosure and presentation of oral and written comments and other information regarding the eradication project. The bill would prohibit the Director from expanding the boundaries of an aerial treatment area, or significantly changing the method of treatment, without conducting additional hearings under prescribed conditions.

The bill would also require the Director of the Department of Health Services (DHS) to attend the hearing if possible and, after the hearing, determine whether the aerial application of the economic poison will present a significant health risk to persons in the treatment area. If the DHS Director determines that the aerial application will present a significant health risk, it will not be permitted to commence.

AB 2644 would also establish a scientific review panel in CDFA, and would require the panel to conduct a continual analysis of the Department's programmatic approach to pest infestation activities and to prepare a written report upon the completion of each eradication project. This bill is pending in the Assembly Judiciary Committee.

AB 4209 (Allen) would require the CDFA Director, when engaging in aerial application of an economic poison pursuant to a pest eradication program, to notify local broadcast and print media and cities and counties in the affected area prior to the application. If the date of an application is changed, the required notice must be redistributed and must contain the revised information; in addition, the Director must transmit the revised information to the local print media, and application of the economic poison is prohibited within 96 hours from the date of that change. In all cases of aerial applications, the required notice must be given in both English and any other language if over 5% of the persons in the area receiving that notice speak only that other language.

AB 4209 would also require DHS to conduct an epidemiological study of possible long-term health effects related to the aerial application of pesticides in urban areas, including cancer, birth defects, and respiratory illnesses. This bill is pending in the Senate Committee on Agriculture and Water Resources.

AB 3067 (Murray), as amended April 19, would require DHS, within 30 days of receipt of a decision by the CDFA Director to engage in a pest eradication project, to form a health advisory panel to evaluate health effects information, determine the extent to which the public is exposed to the pesticide in the eradi-



cation area, recommend to CDFA and DHS local conditions that should be considered when using the pesticide, and make available public information materials. This bill, which would take effect immediately as an urgency statute, is pending in the Assembly Ways and Means suspense file.

AB 4161 (Katz), as amended June 12, would request the Regents of the University of California to establish the University of California Center for Pest Research, to serve as a focal point for reviewing and prioritizing pest-related research conducted through the University. The Center would be responsible, among other things, for coordinating pest research projects and for making recommendations for awarding pest research funds. This bill would require the Center, through its director and the Center's Pest Research Advisory Board, created by the bill, to establish a prescribed list of research priorities for identifying and applying biological control, integrated pest management, agroecology, biotechnology, and other alternative pest management methods and programs. This bill is pending in the Senate Education Committee.

SB 415 (Torres). Existing law, until January 1, 1991, provides procedures for adopting and carrying out pest eradication projects; the CDFA Director is required to use nonpesticide alternatives in an eradication project to the maximum extent feasible and requires the Director's decision to include written findings of fact as to each element of the decision including use or nonuse of pesticide alternatives. This bill would require the DHS Director, prior to the establishment of a pest eradication plan by the CDFA Director, to prepare a health risk assessment which considers the health effects of pesticide use on the public, as prescribed, and would require the DHS Director to conduct a comprehensive public health and environmental monitoring program for any pesticide use that is carried out as a part of the eradication plan.

SB 415 would also prohibit any eradication project from including aerial applications of pesticide in an urban area, and would declare legislative findings and intent dealing with pest eradication, including eradication of the Mediterranean fruit fly. This bill is pending in the suspense file of the Assembly Ways and Means Committee.

AB 1938 (Waters, N.). Existing provisions of the Foreign Market Development Export Incentive Program for California Act, among other things, define "cooperator contributions" for

purposes of funding agricultural commodity export sales project agreements. This bill requires that specified state marketing order board funds be counted as cooperator contributions. The bill also revises the definition of agricultural commodities to include livestock fed in feedlots located in the state. The bill further increases the annual appropriation for the Program's administrative costs in the Budget Act to \$500,000.

AB 1938 also requires the CDFA Director to designate the chairperson of the advisory committee which reviews and makes recommendations on project proposals, and authorizes the advisory committee to hold closed sessions to discuss certain information, notwithstanding the Bagley-Keene Open Meeting Act, if the advisory committee makes a specified determination. The bill also deletes a statement of legislative intent that \$5,000,000 be appropriated annually for the Program; and requires that the Director's report be submitted to the chairpersons of the appropriate legislative policy committees, rather than to the legislature, on December 31 of every odd-numbered year. This bill was signed by the Governor on May 18 (Chapter 100, Statutes of 1990).

SB 1754 (Ayala) makes it a felony for any person to willfully and knowingly import into, or to ship or transport within, the state a Mediterranean fruit fly. The bill has been signed by the Governor (Chapter 167, Statutes of 1990).

AB 3390 (Areias), as amended February 27, would increase the maximum limits of civil liabilities to \$2,500 for violations of the California Marketing Act or the Agricultural Producers Marketing Law and would specify that each violation during any day is a separate offense. This bill is pending in the Senate Committee on Agriculture and Water Resources.

SB 2831 (Petris), as amended June 12, would enact the Child Cancer Prevention Act of 1990, requiring the CDFA Director, not later than July 1, 1992, to refuse to register any new economic poison and cancel the registration of any previously registered economic poison for use in homes, gardens, or schools which contains ingredients for which health effects studies are incomplete or inadequate. Also, the Director would be required to refuse a new registration and cancel an existing registration within one year from the date on which an inert ingredient of that economic poison becomes known to cause cancer or reproductive harm. This bill is pending in the Assembly Agriculture Committee.

AB 3149 (Jones), as amended May 22, authorizes the CDFA Director to seize and hold unharvested produce that is within one week of being in a harvestable condition, which carries or is suspected of carrying pesticide residue of other added deleterious ingredients in violation of those provisions dealing with produce which carry pesticide residue and regulations adopted pursuant thereto. This bill also permits the Director or any Agricultural Commissioner to seize and hold any lot of produce under these conditions. The bill requires that the seized lots of produce be held until the preharvest interval has expired and the Director has determined that any pesticide residue is within a permissible tolerance. This bill has been signed by the Governor (Chapter 288, Statutes of 1990).

AB 3719 (Chandler), as amended June 1, would make it a misdemeanor to refuse or neglect to comply with any lawful order of the CDFA Director issued under provisions regulating pest control operations. This bill would also authorize recovery of civil penalties levied by the Director or an Agricultural Commissioner by a judgment. The bill would prohibit the court clerk from charging any fee for official services required in connection with the entry of judgment pursuant to the bill, which is pending in the Senate Committee on Agriculture and Water Resources.

SB 1798 (Rogers). Under the Birth Defect Prevention Act of 1984, the CDFA Director is required to monitor compliance with the timetable for the filling of all data gaps on all pesticide active ingredients which are registered or licensed in California. As introduced January 18, this bill would require the Director to also review the timetable established by the U.S. Environmental Protection Agency for the accelerated registration program under amendments effective in 1989 to the Federal Insecticide, Fungicide and Rodenticide Act. This bill is pending in the Assembly Agriculture Committee.

AB 2776 (Waters), as amended May 21, would require the CDFA Director to establish and administer a research program to control vertebrate pests which pose a significant threat to the welfare of the state's agricultural economy and public. The bill would require the Director to establish the Vertebrate Pest Control Research Advisory Committee, with a prescribed membership, to recommend to the Director priorities for conducting various vertebrate pest control research projects. The bill would require, with prescribed exceptions, each county Agricultural Commissioner



REGULATORY AGENCY ACTION

to pay an assessment on the vertebrate pest control materials sold, distributed, or applied by the county for vertebrate pest control purposes. This bill is pending in the Senate Committee on Agriculture and Water Resources.

AB 2665 (Seastrand), as amended March 21, would require county Agricultural Commissioners to include, in their annual reports to the Director, information on what is being done to manage rather than destroy pests, and actions taken relating to the exclusion of pests. The report would include information relating to organic farming methods, biotechnology, integrated pest management, and biological control activities in the county. This bill is pending in the Senate Committee on Agriculture and Water Resources.

AB 4176 (Bronzan). Under existing law, the Department is required, commencing in 1990, to expand and maintain its pesticide residue monitoring program beyond the 1988 level. The program requires prioritization by degree of health concern and contribution to dietary exposure and for various sensitive subpopulations, including children. As amended March 2, this bill would require the program to be prioritized for various subpopulations which may be uniquely sensitive to pesticide residues, with special emphasis on infants and children. The bill would also repeal existing law requiring commercial laboratories which conduct pesticide residue analysis on produce or plant tissues to register annually with the Department. Additionally, the bill would require the Department to establish a competitive grant program to make funds available to qualified public and private entities to conduct pest management research projects, with an emphasis on projects that will result in the reduction of pesticide use, the use of safer pesticides, or minimizing pesticide residues. This bill is pending in the Senate Committee on Agriculture and Water Resources.

The following is a status update of bills reported in CRLR Vol. 10, No. 1 (Winter 1990) at pages 122-23:

SB 356 (Petris) would enact the Agricultural Hazard Communication Act, which would require the CDFA Director to adopt regulations setting forth an employer's duties towards its agricultural laborers, and to develop crop sheets for each labor intensive crop to be printed in English and Spanish. This bill is still pending in the Assembly inactive file.

SB 970 (Petris) would enact the Child Poisoning Act and would prohibit the CDFA Director from renewing the registration of a household pesticide

after December 31, 1990, if there is an acute effects data gap for the product. This bill is still pending in the Assembly Agriculture Committee.

SB 952 (Petris), which would require CDFA to report pesticide active ingredient data gaps and other specified information to the legislature by March 1, 1991, is still pending in the Assembly Health Committee.

AB 563 (Hannigan), which would require CDFA to develop and establish a program for the collection of banned or unregistered agricultural waste, is pending in the Senate Committee on Toxics and Public Safety Management.

AB 618 (Speier), as amended June 19, would provide that any packaged food distributed on or after January 1, 1991, is misbranded unless it bears a label disclosing specified nutritional information on the fat and cholesterol content of the food. This bill is being held in the Senate Committee on Health and Human Services.

LITIGATION:

CDFA has spent considerable time fending off lawsuits challenging its aerial malathion spraying program, including *City of Huntington Beach v. Department of Food and Agriculture*, No. 363384 (Sacramento County Superior Court); *City of San Bernardino v. Henry Voss*, No. C256105 (San Bernardino County Superior Court); *City of El Cajon v. State of California*, No. EC-002333 (San Diego County Superior Court); and *City of Los Angeles v. Deukmejian*, No. C753054 (Los Angeles County Superior Court). Motions for preliminary relief were denied in all cases, thus enabling CDFA to carry out its scheduled spraying. Several of the cases are still pending,

either in the trial court or on appeal. (See *supra* MAJOR PROJECTS, FEATURE ARTICLE, and COMMENTARY for related information.)

In *People v. Reilly*, No. 89-0752-RAR-EM, Attorney General John Van de Kamp, the AFL-CIO, and several public interest groups sued the EPA in federal court in Sacramento, alleging that the agency has failed to enforce a provision of the federal Food, Drug, and Cosmetic Act known as the Delaney Clause, which bans the use of known carcinogens in foods. The suit seeks to outlaw the use of seven chemicals which leave concentrated residues in processed foods, and to force EPA to gather new data on all pesticides approved for use on raw foods in order to determine whether they reach unsafe concentrations in processed foods.

On November 20, 1989, several growers, food processors, and chemical industry groups filed a motion to intervene as co-defendants, arguing they have a right to intervene because disposition of the action may affect the food crops, processed foods, and agricultural chemicals they produce. Also, the industry groups stated they have a strong interest in maintaining tolerances for pesticide residues and the use of associated agricultural chemicals. The Attorney General stipulated to allow the industry groups to intervene.

Recently, the Attorney General filed a motion for summary judgment; EPA filed a motion to dismiss; and the intervenors (industry groups) filed a motion for judgment on the pleadings.

FUTURE MEETINGS:

The State Board of Food and Agriculture usually meets on the first Thursday of each month in Sacramento.



RESOURCES AGENCY

AIR RESOURCES BOARD

Executive Officer: James D. Boyd
Chair: Jananne Sharpless
(916) 322-2990

Pursuant to Health and Safety Code section 39003 *et seq.*, the Air Resources Board (ARB) is charged with coordinating efforts to attain and maintain ambient air quality standards, to conduct research into the causes of and solutions to air pollution, and to systematically

attack the serious problem caused by motor vehicle emissions, which are the major source of air pollution in many areas of the state. ARB is empowered to adopt regulations to implement its enabling legislation; these regulations are codified in Titles 13, 17, and 26 of the California Code of Regulations (CCR).

ARB regulates both vehicular and stationary pollution sources. The California Clean Air Act requires attain-